

MEMORANDUM OF UNDERSTANDING BETWEEN
THE OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
U.S.ENVIRONMENTAL PROTECTION AGENCY

AND

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

I. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to establish policies and procedures for a general working agreement between the Office of Solid Waste and Emergency Response (OSWER) of the United States Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA) of the United States Department of Commerce (DOC) in support of the National Brownfields Initiative.

II. BACKGROUND

Brownfields are abandoned, idled, or under used industrial and commercial properties where redevelopment is complicated by real or perceived environmental contamination. Because of the stigma of contamination and other barriers to redevelopment, brownfields remain unproductive; blighting communities while developers resort to using "greenfields" outside of cities.

The National Brownfields Initiative seeks to protect public health and the environment by cleaning up contaminated properties, and thereby creating jobs, providing opportunities for private investment and expanding local economies. The purpose of this Initiative is to empower communities and other agents of economic development, environmental stewardship and community revitalization to work together to assess, safely clean up, and sustainably reuse brownfields.

It has become increasingly clear that in order for the Initiative to be effective and provide models for states and municipalities to cleanup and redevelop potentially contaminated properties, it is necessary to coordinate Federal programs related to the clean up, reuse and redevelopment of brownfields.

Beginning with the Brownfields Action Agenda announced in 1995, EPA has empowered states, communities and other stakeholders to work together in a timely manner to address brownfields. EPA's initiative has begun the process of assessing, cleaning up and sustainably redeveloping brownfields, including removing 27,000 sites from the Superfund site inventory and awarding grants of up to \$200,000 each to more than 75 communities to conduct site assessment and response planning.

EPA's Assistant Administrator for OSWER is authorized and directed to, among other things, prepare for and respond in a timely and effective manner to releases of hazardous substances, pollutants and contaminants into the environment; to establish and maintain programs, incentives, networks and other institutional mechanisms to minimize the quantity and toxicity of waste created by commercial, domestic, and government activities; and to ensure environmentally sound management of solid and hazardous wastes.

DOC's Acting Assistant Secretary and Deputy Administrator for NOAA is authorized and directed to, among other things, conserve and manage wisely the Nation's coastal and marine resources to ensure sustainable economic development and environmental stewardship; implement integrated approaches to environmental management and ocean and coastal resources development for economic, environmental and social health; ensure that as a trustee agency for coastal and marine resources, NOAA utilizes its authority under CERCLA and OPA to ensure protective remediation of natural resources adversely affected by contamination; and ensure that as an agency within the Department of Commerce, NOAA balances its goals of environmental protection with economic opportunity and social well-being.

In addition, NOAA and EPA have been working together since 1985 through interagency agreements and a Memorandum of Understanding (OSWER Directive 9295.0-02) to protect and mitigate effects to natural resources and habitat under NOAA's jurisdiction that have or may be injured by hazardous materials releases.

III. AGREEMENT

The Agencies agree to:

- A. Collaborate in the implementation of the President's Brownfields Initiative by coordinating the brownfields activities of EPA and NOAA within coastal areas.
 - OSWER and NOAA will develop and improve their cooperative working relationship by identifying coordination opportunities and implementing

collaborative actions in support of the Brownfields Initiative.

- OSWER and NOAA will collaborate in identifying, evaluating and assessing brownfields in coastal areas to support NOAA's role as the Federal trustee for coastal and marine resources and EPA's role as a regulatory agency.
- B. Jointly identify and implement actions in collaboration with coastal states and territories to link brownfields activities with coastal management activities. These actions may include both financial and technical assistance (as appropriate), and will:
- support state and local government efforts to develop proposals for integrating brownfields assessment and cleanup with state coastal management programs;
 - coordinate delivery of brownfields information to state and local agencies in the coastal zone;
 - coordinate state voluntary cleanup programs for brownfields and state coastal management programs;
 - assist waterfront and coastal communities in initiating the assessment, cleanup and redevelopment of brownfields;
 - support training initiatives in waterfront and coastal communities linked to brownfields assessment, cleanup and redevelopment;
 - coordinate efforts to provide technical support such as watershed mapping, ecological risk assessment training, waste site reports and other technical expertise to facilitate brownfields clean-up and habitat restoration; and
 - collaborate in joint projects or proposal reviews for grant awards sponsored by either agency.
- C. Jointly develop and support research addressing brownfields issues. This joint research agenda could include short-term investigations as well as longer-term research, the development of performance measures and benchmarks for joint programmatic initiatives, and the preparation of guidance materials to help states and localities more effectively address brownfields, coastal zone management and economic revitalization.

- NOAA and OSWER Headquarters and Regional staff may share knowledge and serve together on advisory groups in the collection and dissemination of information on brownfields.
- D. NOAA will participate with the EPA, Department of Justice, and other Federal trustee agencies on a task force to facilitate granting covenants-not-to-sue to resolve liability for damages to natural resources from potential brownfield sites. This may include exploring a possible format for a checklist and review process for release from natural resources damage liability. In this role, NOAA acts on behalf of the public to protect and restore natural resources and their habitat under NOAA's jurisdiction.

IV. PROGRAMMING, BUDGETING, FUNDING, AND REIMBURSEMENT ARRANGEMENT

- A. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the Parties to this MOU will be handled in accordance with applicable laws and regulations and procedures, and will be subject to separate, subsidiary agreements that shall be effected in writing by representatives of both Parties.
- B. This MOU in no way restricts EPA or DOC from participating in similar activities or arrangements with other entities or Federal agencies.
- C. Nothing in this MOU shall obligate EPA or DOC to expend appropriations or to enter into any contract or other obligations.

V. AUTHORITIES

The authorities governing this MOU are as follows:

The Brownfields Initiative has initially been undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). Because of the diverse nature of the problem and situations being addressed through the initiative, the roles of other Federal statutes in governing EPA and NOAA activities under this MOU are becoming increasingly significant. These other relevant statutes include, but are not limited to, the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), including Subtitle C (hazardous waste), Subtitle D (solid waste), Subtitle I (underground storage

tanks; and the Oil Pollution Act of 1990 (OPA). The National Environmental Policy Act of 1969, as amended, (NEPA) Pub. L. 91-190, 42 U.S.C. 4321-4347; and Executive Order 12898 on Environmental Justice. The Coastal Zone Management Act of 1972 (CZMA) (16 U.S.C. 1451) provides funding to coastal states to address coastal issues, including the reuse of urban waterfronts. Funding priorities are annually negotiated between NOAA's Office of Ocean and Coastal Resource Management (OCRM) and state and territorial coastal management programs. The CZMA provides no additional funding to support this MOU.

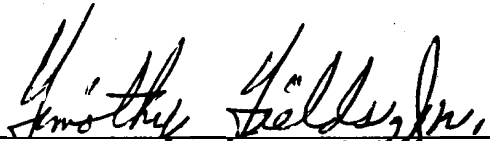
NOAA has been delegated by the Secretary of Commerce with the responsibility for implementing the Department's role as a federal resource trustee (Exec. Order 12580 and 40 CFR 300.600(b)) pursuant to section 107(f) of CERCLA, section 311(f)(5) of the Clean Water Act, and section 1006 of the Oil Pollution Act. In this role, NOAA acts on behalf of the public to protect and restore coastal resources threatened by hazardous materials releases.

VI. EFFECTIVE DATE

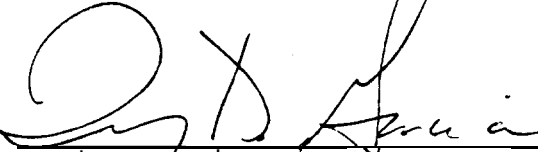
This MOU will become effective upon signature by the Parties hereto and shall remain in effect until termination by either Party. Either Party may terminate this MOU upon 90 days written notice to the other Party. Its provisions will be reviewed annually and amended or supplemented as may be agreed upon mutually.

VII. OTHER MOUS

There are no superseding MOUs on this topic between the Parties hereto, and this agreement is consistent with the other MOUs and agreements that already exist between the Parties.



Acting Assistant Administrator
Office of Solid Waste and
Emergency Response
U.S. Environmental Protection
Agency



Acting Assistant Secretary
for Oceans and Atmosphere
U.S. Department of Commerce

3/18/97

(Date)

3/18/97

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